IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

WP(C).No. 906 of 2007(G)

PETITIONER:

K.MOHAMAD, ADVOCATE,
"SHRIN", PORANDOOR ROAD, KALOOR, KOCHI- 682 017.

BY ADV. SRI.M.V.BOSE
SRI.VINOD MADHAVAN
SMT.NISHA BOSE

RESPONDENTS:
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1. THE KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY,
THIRUVANANTHAPURAM.

2. THE ASSISTANT EXECUTIVE ENGINEER,
KSE BOARD, KALOOR SECTION, KALOOR, ERNAKULAM.

3. THE ASSISTANT ENGINEER,
KERALA STATE ELECTRICITY BOARD,
ELECTRICAL SECTION, KALOOR, ERNAKULAM,
COCHIN- 682017.

BY ADV. SRI.JOSE J.MATHEIKEL, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.906/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE LETTER DATED 18.8.2003 FROM THE PETITIONER TO ASST.EXECUTIVE ENGINEER, K.S.E.B, KALOOR, ERNAKULAM.

EXT.P2: TRUE COPY OF JUDGMENT IN W.P(C) NO.26995 OF 2003(L0 DATED 17.3.2004.

EXT.P3: TRUE COPY OF NOTICE FROM ASST.ENGINEER, ELECTRICAL SECTION, KALOOR, KOCHI 17 TO PETITIONER.

EXT.P4: TRUE COPY OF LETTER DATED 26.6.2004 FROM THE PETITIONER TO ASST.EXECUTIVE ENGINEER, ELECTRICAL MAJOR SECTION, KALOOR, ERNAKULAM.

EXT.P5: TRUE COPY OF DEMAND NOTICE DATED 29.12.2006 ISSUED TO THE PETITIONER.

//TRUE COPY//

P.A. TO JUDGE

K.BALAKRISHNAN NAIR, J.

WP(C).No.906 of 2007-G

Dated this the 14th day of February, 2007.

JUDGMENT

The petitioner is a consumer of electricity under the respondents and his consumer number is 1754. He is aggrieved by a bill dated 19-12-2002 claiming an amount of Rs.3,736/-. Feeling that the said demand is unjustified, he filed a representation on 26-12-2002 which was followed by Ext.P1 representation dated 18-8-2003. Thereafter, he approached this court by filing W.P.(C).26995 of 2003. This court disposed of the said writ petition directing the Assistant Executive Engineer, Kaloor, the second respondent herein, to consider and pass orders on the above-said two representations and to keep in abeyance further coercive recovery steps. The petitioner submits, though he was called for a hearing on 11-6-2004, as evident from Ext.P3, no hearing was held as the second respondent was not present on that day. Thereupon, the petitioner submitted Ext.P4 representation requesting to inform him a convenient date for hearing. But, thereafter Ext.P5 bill has been issued claiming an amount of Rs.89,592/- which includes a surcharge of Rs.22,821/-. Since the petitioner failed to pay the amount demanded under the disputed bills, the amounts due under the bills issued from time to time were not

received by the respondents. So, those bills have also fell in arrears. Under Ext.P5 the entire amount is demanded including amounts covered by the disputed bill. The petitioner submits, Ext.P5 demand has been issued without affording an opportunity of being heard as directed by this court in Ext.P2 judgment.

2. The respondents have filed a statement in which it is stated that the petitioner was given notice of hearing on 11-6-2004. But, he failed to appear. The details of the bills due from the petitioner after the disputed bills are also given along with the statement.

3. The petitioner has filed a reply affidavit denying the averments in the statement.

4. Heard the learned counsel on both sides. Going by the details furnished by the K.S.E.B. in its statement, it could be seen that arrears accumulated because of the non-payment of the bills after the date of disputed bills after the date of disputed bills the K.S.E.B. is entitled to collect the amounts due to it. Having regard to the materials produced by the petitioner, it cannot be held that he is not liable to pay the amounts demanded by the K.S.E.B. But, it is ordered that the petitioner shall be allowed to pay the amount in monthly instalments of Rs.10,000/- (Rupees ten thousand only). The first instalment shall be paid on or before 14-3-2007. He will continue to

pay Rs.10,000/- on or before the 14th of the succeeding months until the entire liability is wiped off. Before the last instalment, the second respondent shall inform the petitioner any additional amount he has to pay towards interest which might have accrued in the mean time. The petitioner shall along with the last instalment pay the said amount also. If there is default in payment of any of the instalments, the respondents will be free to take action, in accordance with law, for realisation of the amount due to the K.S.E.B.

The writ petition is disposed of as above.

K.BALAKRISHNAN NAIR,
MS JUDGE.